

9/9/09

STATE OF FLORIDA
BUILDING COMMISSION

In the Matter of

KALWALL CORPORATION,
INC.,

Case #: DCA09-DEC-139

Petitioner.

_____ /

DECLARATORY STATEMENT

The foregoing proceeding came before the Florida Building Commission (the Commission) by a Petition from David G. Karins, P.E., representing Kalwall Corporation which was received on May 7, 2009. Based on the statements in the petition, the material subsequently submitted and the subsequent request by the Petitioner, it is hereby

ORDERED:

Findings of Fact

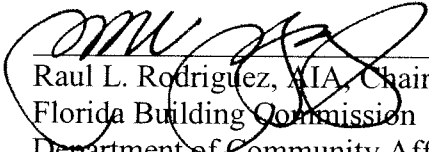
1. The petition is filed pursuant to, and must conform to the requirements of Rule 28-105.002, Florida Administrative Code.
2. The Petitioner manufactures construction related products for use in projects within the State of Florida subject to the Florida Building Code.
3. The Petitioner had one of its products tested by a test laboratory approved by the Commission. The approved lab issued a test report that demonstrates compliance with requirements that are included in the Florida Building Code (2007), and that bears an expiration date that has passed.
4. The Petitioner inquires whether the test report can serve as the basis for state product approval by the Commission?

Conclusions of Law

1. The Florida Building Commission has the specific statutory authority to interpret the provisions of the Florida Building Code and Rule 9B-72, Florida Administrative Code, by entering a declaratory statement.
2. Rule 9B-72.010(32), (33), Florida Administrative Code, define “test” and “test report”. Neither definition refers to or acknowledges expiration of a test or report thereof.
3. Rule 9B-72.070, Florida Administrative Code, prescribes requirements for test reports submitted in support of an application for state product approval by the Commission. These requirements do not refer or acknowledge expiration dates for test reports.
4. On the basis of the foregoing, an expired test report can be used to seek product approval under Rule 9B-72 provided that the report demonstrates compliance with a standard adopted within the Building Code, and the application and other documentation meets the requirements of the rule.

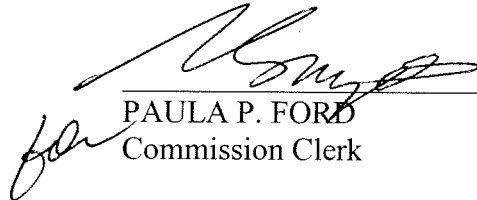
Petitioner and all other interested parties are hereby advised of their right to seek judicial review of this Order in accordance with Section 120.68(2)(a), Florida Statutes, and with Fla. R. App. 9.030(b)(1)(C) and 9.110(a). To initiate an appeal, a Notice of Appeal must be filed with Paula P. Ford, Clerk of the Commission, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, and with the appropriate District Court of Appeal no later than thirty days after this Order is filed with the Clerk of the Commission. A Notice of Appeal filed with the District Court of Appeal shall be accompanied by the filing fee specified by section 35.22(3), Florida Statutes.

DONE AND ORDERED this 3rd of September, 2009, in Coral Gables,
Miami-Dade County, State of Florida.


Raul L. Rodriguez, AIA, Chair
Florida Building Commission
Department of Community Affairs
Sadowski Building
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent to the
following by the method indicated on this 9th day of September, 2009.


PAULA P. FORD
Commission Clerk

Via U.S. Mail

David G. Karins, P.E.
Karins Engineering Group, Inc.
2017 Fiesta Drive
Sarasota, Florida 34231

Authorized Representative for
Kalwall Corporation

Via Hand Delivery

Mo Madani, C.B.O. Manager
Codes and Standards Section
Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100

FILING AND ACKNOWLEDGEMENT
FILED, on this date, with the designated
Agency Clerk, receipt of which is hereby
acknowledged.


Minam Snipes
Deputy Agency Clerk

9/9/09
Date